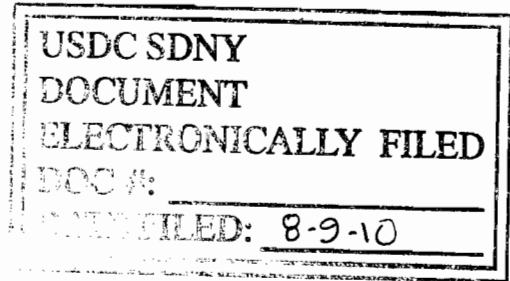


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
PHILLIP MINUCCI,

Petitioner,

-against-

SUSAN A. CONNELL, Superintendent,
Oneida Correctional Facility,

Respondent.
-----X

**REPORT AND
RECOMMENDATION
TO THE HONORABLE
P. KEVIN CASTEL**

09 Civ. 6498 (PKC) (FM)
09 Civ. 6595 (PKC) (FM)

FRANK MAAS, United States Magistrate Judge.

On April 30, 2009, the Pro Se Office of this Court received Mr. Minucci's habeas petition challenging the legality of his guilty plea. Subsequently, Mr. Minucci was granted parole and, on September 14, 2009, was released from custody after serving 17 months of a 42 to 126 month sentence. If his guilty plea was vacated, he faced the prospect of a resumed prosecution which could have resulted in a sentence as long as seven to fifteen years.

On July 30, 2010, I held a telephone conference with Mr. Minucci to discuss his situation. I held a follow-up telephone conference on August 5, 2010.¹ During the latter conference, Mr. Minucci indicated that he no longer wished to pursue his petition. He also indicated that he understood the consequences of his decision, and confirmed that he had not been pressured by anyone to withdraw the petition.

¹ I have asked that both conferences be transcribed.

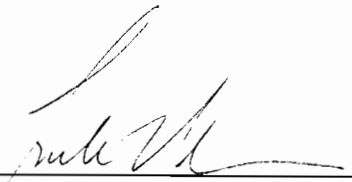
For these reasons, I recommend that Mr. Minucci's petition be dismissed.

Notice of Procedure for Filing of Objections to this Report and Recommendation

The parties are hereby directed that if they have any objections to this Report and Recommendation, they must, within fourteen days from today, make them in writing, file them with the clerk of the Court, and send copies to the chambers of the Honorable P. Kevin Castel, United States District Judge, and to the chambers of the undersigned, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, and to any opposing parties. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72(b). Any requests for an extension of time for filing objections must be directed to Judge Castel. The failure to file timely objections will result in a waiver of those objections for purposes of appeal. See Thomas v. Arn, 474 U.S. 140 (1985); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(e), 72(b).

SO ORDERED.

DATED: New York, New York
August 6, 2010


FRANK MAAS
United States Magistrate Judge

Copies to:

Lea L. La Ferlita
Assistant Attorney General
Fax: (212) 416-6075

Phillip Minucci
21 Kevin Rd.
Commack, New York 11725